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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re D.B., et al., Persons Coming  
Under the Juvenile Court Law.

B288617  
(Los Angeles County  
Super. Ct. Nos. CK93618C-E)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

NATASHA D. et al.,

Defendants and Appellants.

APPEAL from orders of the Superior Court of Los Angeles County. Michael E. Whitaker, Judge. Dismissed in part, affirmed in part.

Megan Turkat Schirn, under appointment by the Court of Appeal, for Defendant and Appellant Natasha D.

Jesse McGowan, under appointment by the Court of Appeal, for Defendant and Appellant Darryl B.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Stephen D. Watson, Deputy County Counsel, for Plaintiff and Respondent.

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Natasha D. (mother) and Darryl B. (father) appeal from the jurisdictional and dispositional orders entered February 6, 2018. Both mother and father contend the court's exercise of jurisdiction based on the juvenile court's findings of sexual abuse is not supported by substantial evidence. Father also argues the juvenile court abused its discretion in ordering him to take sexual abuse awareness classes.

Because neither parent challenges the other bases upon which the juvenile court exercised jurisdiction, we conclude their appeals of the jurisdictional findings are nonjusticiable and therefore dismiss the appeals as to that issue. As for father's appeal of the dispositional order, we affirm.

#### **FACTUAL AND PROCEDURAL BACKGROUND**

Mother and father have been together, on and off, for some 20 years. Their relationship has been marred by domestic violence and substance abuse. They have three adult children not at issue in this appeal. In 1999, mother obtained a restraining order against father because of an incident of domestic violence. Father was convicted and served time in prison. Apparently, upon release from prison, mother allowed father to return to their home. By 2011, mother and father had three additional children. D.B was born in 2002, N.B. in 2010 and T.B. in 2011.

The current dependency proceeding is not mother and father's first encounter with the Los Angeles County Department of Children and Family Services (Department). In 2012, the court asserted dependency jurisdiction over the three minor boys (D.B.,

N.B. and T.B.), sustaining allegations that father forcibly raped mother in the presence of the children and exposed the children to prescription drug trafficking, and mother knew of father's behaviors and failed to protect the children. After providing services, the court terminated dependency jurisdiction in 2013, issued a family law order giving mother sole legal and physical custody and imposed a three-year restraining order against father. Father was ordered to have no contact with the children or mother without first filing an application with the family law court and obtaining an order allowing same.

In 2015, mother reported sexual abuse by father of the two youngest boys, N.B. and T.B. Using a cell phone, mother video recorded the boys' disclosures. Both boys said father touched their "butts." N.B. also said that father put his finger in his "butt" and masturbated in front of them. The abuse occurred while mother was at work and the boys were purportedly being cared for by paternal grandmother. Mother took the children to the police station and made a report. Mother also took the boys to a medical clinic to be examined. Based on mother's agreement to protect the boys from father, the Department closed the 2015 case.

The current proceeding arose from a referral in July 2017 in which a caller to the Department's hotline reported that mother had been hospitalized for a possible stroke and father had access to the children in her absence and was sexually abusing them. The caller also indicated that sometime in April, father had chased mother in a car and she had broken her ankle as a result.

The Department filed a petition pursuant to Welfare and Institutions Code section 300, subdivisions (b), (d) and (j)<sup>1</sup> alleging that father had sexually abused N.B. and T.B. by inserting his finger into each child's anus, and mother had failed to protect the children from such conduct. It was further alleged that mother and father had established a detrimental home environment for the children by allowing father to reside in the family home and have unmonitored access to the children in direct violation of a prior court order. The petition was subsequently amended to add an allegation that father had an unresolved substance abuse problem and mother knew of the problem and failed to protect the children from father's behavior.

The children were detained from father and ordered released to mother. Father was granted monitored visitation.

According to the jurisdiction and disposition report, the Department "substantiated" the 2015 allegations of sexual abuse but closed the referral based on mother's agreement to remain protective of the boys and keep father away from them. The report included copies of the August 20, 2015 forensic interviews of mother and N.B., as well as the medical examinations of the two boys. In mother's statement, she said her boys were not lying, "why would they lie on their father?" N.B. told the interviewer that his "daddy" touched his "butt" and also touched T.B. and T.B. did not like it. N.B. was somewhat inconsistent about the location, whether he was asleep or the touching awakened him, and other details.

The records of the boys' medical examinations did not show any physical findings of abuse. However, the examiner noted that

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<sup>1</sup> All undesignated section references are to the Welfare and Institutions Code.

N.B. “during [the] exam” reported that “Daddy pinched my weenie” and pointed to his anus and said “Daddy put his finger here in my butt.” Mother told the examiner that when she took the boys to a medical clinic after initially reporting the abuse, the doctor noted “irritation and denuded anal skin” on N.B.

During the investigation, the social worker determined that despite earlier assurances by mother to protect the boys, father was regularly in the home and had access to the boys. Father denied the allegations, stating he had done a lot of things in his life but “touching kids” was not one of them. Mother also denied the allegations and downplayed the April domestic violence incident, saying that it had just been an argument. The eldest boy, D.B., denied any abuse, denied seeing his father ever abuse his brothers and said his younger brothers made things up. In conversations with the social worker, N.B. and T.B. denied any abuse.

The combined jurisdiction and disposition hearing was held on February 6, 2018. As to the eldest child, D.B., the court sustained the failure to protect allegations at paragraph b-3 as to both mother and father, and dismissed the remaining allegations. As to both of the younger boys, N.B. and T.B., the court sustained all of the allegations against both mother and father, except for the allegation at paragraph b-4 regarding father’s alcohol and substance abuse which was dismissed.

The court ordered that mother was to retain physical custody of all three minor boys and be provided family maintenance services. The court struck the domestic violence and substance abuse classes from the Department’s proposed case plans, but otherwise adopted the plans, including sexual abuse awareness classes for both parents and individual counseling to address case issues.

This appeal followed.

## **DISCUSSION**

### **1. The Jurisdictional Findings**

The juvenile court exercised jurisdiction over the three minor boys on multiple grounds. The allegation at paragraph b-3 was sustained as to all three minor boys and was based on the fact mother and father had “established a detrimental and endangering home environment for the children,” who were prior dependents of the juvenile court based on domestic violence between the parents and father’s substance abuse. Further, mother and father violated the court’s prior order that father was not to have contact with the children. Mother failed to protect the children, notwithstanding the court’s prior order, and allowed father to stay in the home and have unmonitored access to the children.

Neither father nor mother have challenged the court’s exercise of jurisdiction based on the allegation at paragraph b-3. They challenge *only* the findings of sexual abuse. Where, as here, a parent is urging appellate relief from some, but not all, of the juvenile court’s jurisdictional findings, the reviewing court should not decide the issue unless the court can grant effective relief. (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1489-1490; see also *In re I.J.* (2013) 56 Cal.4th 766, 773 [where multiple grounds for assertion of dependency jurisdiction are alleged and sustained “ ‘a reviewing court can affirm the juvenile court’s finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction’ ” is supported by substantial evidence].)

Because neither parent’s appeal of the jurisdiction order presents a genuine challenge to the juvenile court’s assumption of dependency jurisdiction over D.B., N.B. and T.B., any order we would enter here will have no practical impact on the pending

dependency proceeding. Accordingly, we find mother's appeal of the jurisdiction order and father's appeal, to the extent it challenges the jurisdiction order, to be nonjusticiable and therefore dismiss the appeal as to that issue.

In any event, even if we were to consider the argument, there is ample evidence summarized above supporting the court's assumption of jurisdiction based on the sexual abuse allegations. (*In re I.J.*, *supra*, 56 Cal.4th at p. 773 [jurisdiction finding reviewed for substantial evidence]; see also § 355, subd. (a) & Cal. Rules of Court, rule 5.684(e) [juvenile court jurisdiction findings governed by preponderance standard].)

## **2. The Dispositional Order**

Father contends the juvenile court abused its discretion in ordering him to complete a sexual abuse awareness class as part of his case plan. Father has forfeited the contention.

During the hearing, father did not object to a sexual abuse awareness class being included in his case plan. In fact, counsel for father conceded the reasonableness of such an order. After requesting that the case plan be narrowly tailored and objecting to a substance abuse class, counsel said "the sexual abuse awareness class does make the most sense."

Because father did not object below to the sexual abuse awareness class, he has forfeited appellate review of the order. (*In re S.B.* (2004) 32 Cal.4th 1287, 1293, superseded by statute in part on other grounds as stated in *In re S.J.* (2008) 167 Cal.App.4th 953, 962 [acknowledging forfeiture rule in dependency proceedings and explaining that a reviewing court's "discretion to excuse forfeiture should be exercised rarely and only in cases presenting an important legal issue"].)

Moreover, even if we considered the argument, we would reject it. The juvenile court is vested with broad discretion to determine what would best serve the interests of a dependent child “‘and to fashion a dispositional order accordingly.’” (*In re Briana V.* (2015) 236 Cal.App.4th 297, 311; *In re Baby Boy H.* (1998) 63 Cal.App.4th 470, 474; see also § 362, subd. (a) [juvenile court may make “all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child”].) “[T]he juvenile court is not limited to the content of the sustained petition when it considers what dispositional orders would be in the best interests of the children.” (*In re Briana V.*, at p. 311.) We will not reverse a dispositional order absent a clear abuse of discretion. (*Ibid.*)

The record here demonstrated father had a significant history with the Department, including prior substantiated claims for sexual abuse of N.B. and T.B., and a sexual assault of mother. It was patently reasonable for the court to order father to complete a class educating him about sexual abuse in order to help prevent future risk to the children.

### **DISPOSITION**

Mother’s appeal of the February 6, 2018 jurisdictional order is dismissed. Father’s appeal of the February 6, 2018 jurisdictional order is dismissed.

Father’s appeal of the February 6, 2018 dispositional order is affirmed.

GRIMES, Acting P. J.

WE CONCUR:

STRATTON, J.

WILEY, J.